

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

PERMA-LINER INDUSTRIES, LLC,

Plaintiff,

v.

Case No: 8:21-cv-715-CEH-TGW

GERALD D'HULSTER,

Defendant.

ORDER

This cause comes before the Court upon the Report and Recommendation filed by Magistrate Judge Thomas G. Wilson on February 9, 2022 (Doc. 117).

In the Report and Recommendation, the Magistrate Judge recommends that the Court grant-in-part and deny-in-part Defendant Gerald D'Hulster's Motion to Dismiss Second Amended Verified Complaint for Injunctive Relief and Damages (Doc. 76). Doc. 117 at 24. The Magistrate Judge recommends that the Court grant the Motion to Dismiss only to the extent that Count VII, which alleges tortious interference with prospective business relationships, be dismissed, without prejudice, to Plaintiff's right to amend that claim. *Id.* The Magistrate Judge recommends that the Court otherwise deny the Motion to Dismiss. *Id.*

All parties were furnished copies of the Report and Recommendation and were afforded the opportunity to file objections pursuant to 28 U.S.C. § 636(b)(1). No such objections were filed.

Upon consideration of the Report and Recommendation, and upon the Court's independent examination of the file, the Court will adopt the Report and Recommendation and grant-in-part and deny-in-part the Motion to Dismiss.

Accordingly, it is **ORDERED**:

- (1) The Report and Recommendation of Magistrate Judge Wilson (Doc. 117) is adopted, confirmed, and approved in all respects and is made a part of this order for all purposes, including appellate review.
- (2) The Motion to Dismiss the Second Amended Complaint (Doc. 76) is **GRANTED-IN-PART** and **DENIED-IN-PART**.
- (3) The Motion to Dismiss is **GRANTED** to the extent that Count VII (Tortious Interference with Prospective Business Relations) is **DISMISSED, without prejudice**, to Plaintiff's right to amend that claim. In all other respects, the Motion to Dismiss is **DENIED**.
- (4) Plaintiff is granted leave to file an amended complaint, that is consistent with this order, within **FOURTEEN (14) DAYS** from the date of this order. Failure to file an amended complaint within the time provided will result in Count VII being dismissed.

DONE AND ORDERED at Tampa, Florida on March 14, 2022.


Charlene Edwards Honeywell
United States District Judge

Copies to:
The Honorable Thomas G. Wilson

Counsel of Record